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18 Attorneys for Defendant
 19 GENESCO, INC.

20 UNITED STATES DISTRICT COURT
 21 NORTHERN DISTRICT OF CALIFORNIA

22 FRANK PABST, an individual, on behalf
 23 of himself and all others similarly situated,

24 Plaintiff,

25 v.

26 GENESCO, INC., a Tennessee
 corporation; and DOES 1 through 50,
 inclusive,

27 Defendants.

Related Case Nos. C 11-01592 (SI) and C 11-04881 (SI)

**JOINT STIPULATION TO CONTINUE
 INITIAL CASE MANAGEMENT
 CONFERENCE AND [PROPOSED] ORDER**

Friday, April 6, 2012

Time: 3:00 p.m.

Ctrm: 10

Judge: Hon. Susan Illston

28 Caption con't on next page

CASE NO. C 11-01592 (SI)

JOINT STIPULATION TO CONTINUE INITIAL CASE MANAGEMENT CONFERENCE AND
 [PROPOSED] ORDER

1 MICHAEL M. FRASER, as an individual
2 and on behalf of all others similarly
3 situated,

4 Plaintiff,

5 v.

6 GENESCO, INC., a Tennessee
7 corporation, d/b/a JOHNSTON &
8 MURPHY,

9 Defendant.

10 Defendant Genesco, Inc. ("Genesco") and plaintiffs Frank Pabst ("Pabst") and Michael M.
11 Fraser ("Fraser," and jointly with Pabst, "Plaintiffs") hereby enter into this stipulation to continue
12 the initial case management conference scheduled for April 6, 2012, to May 18, 2012, subject to
13 the Court's approval. Accordingly, Genesco and Plaintiffs hereby stipulate as follows:

14 STIPULATION

15 **WHEREAS** on or about March 3, 2011, Fraser filed a class action complaint in the U.S.
16 District Court for the Eastern District of California titled *Michael Fraser v. Genesco, Inc.*, Case
17 No. 2:11-cv-00598-MCE-JFM (the "Fraser Complaint"), in which he alleged claims on his own
18 behalf and on behalf of all others similarly situated and the general public for violations of the
19 California Song-Beverly Credit Card Act, Civil Code sections 1747, *et seq.*, and California's
20 Unfair Competition Law, California Business & Professions Code sections 17200, *et seq.*, (the
21 "Fraser Action");

22 **WHEREAS** on or about March 4, 2011, Pabst filed a class action complaint in the
23 Superior Court of California for the County of San Francisco titled *Frank Pabst v. Genesco, Inc.*,
24 Case No. CGC-11-508841 (the "Pabst Complaint"), in which he alleged claims on his own behalf
25 and on behalf of all others similarly situated and the general public for: (1) violations of
26 California's Song-Beverly Credit Card Act, Civil Code section 1747.08; (2) negligence; (3)
27 invasion of privacy; and (4) unlawful intrusion (the "Pabst Action," and jointly with the Fraser
28 Action, "the Actions");

1 **WHEREAS** on or about April 1, 2011, Genesco removed the Pabst Action to the U.S.
 2 District Court for the Northern District of California at which time it was assigned Case No. C
 3 11-01592 (SI);

4 **WHEREAS** on or about May 5, 2011, Genesco moved to dismiss and moved to strike the
 5 Pabst Complaint;

6 **WHEREAS** on or about May 5, 2011, Genesco moved to dismiss and moved to strike the
 7 Fraser Complaint;

8 **WHEREAS** on or about May 11, 2011, Pabst filed a motion with the Judicial Panel on
 9 Multidistrict Litigation (the "JPML") to transfer and coordinate the Actions as multidistrict
 10 litigation and requested the proceedings be assigned to the U.S. District Court for the Northern
 11 District of California. Pursuant to the Parties' request, the U.S. District Court in and for the
 12 Northern District of California stayed the Pabst Action and the U.S. District Court for the Eastern
 13 District of California stayed the Fraser Action pending the JPML's decision;

14 **WHEREAS** on or about August 16, 2011, the JPML denied Pabst's motion for
 15 centralization and instead recommended the Actions be coordinated pursuant to 28 U.S.C. §
 16 1404(a);

17 **WHEREAS** in light of the JPML's ruling, the Parties stipulated to stay the respective
 18 Actions so that Genesco and Fraser could make a motion to transfer the Fraser Action to the U.S.
 19 District Court for the Northern District of California. The Parties filed joint motions to stay the
 20 Actions pending the Eastern District of California's decision on the motion to transfer the Fraser
 21 Action to the Northern District of California, which the respective courts granted;

22 **WHEREAS** the U.S. District Court for the Eastern District of California granted the
 23 motion to transfer the Fraser Action to the Northern District of California on September 29, 2011.
 24 The Fraser Action was transferred and initially was assigned to The Honorable Laurel Beeler,
 25 U.S. District Court for the Northern District of California, Oakland Division;

26 **WHEREAS** the Parties agreed that the Pabst Action and the Fraser Action should be
 27 related. Accordingly, Genesco filed a motion to relate the Actions, which was granted on or
 28

1 about October 25, 2011. As a result, the Fraser Action was assigned to The Honorable Susan
 2 Illston, U.S. District Court for the Northern District of California, San Francisco Division (the
 3 “Court”);

4 **WHEREAS** Genesco’s motions to dismiss and strike the respective Actions were taking
 5 off calendar pending the Parties moving for preliminary approval of their settlement, discussed
 6 below; and

7 **WHEREAS** the Parties engaged in arms-length negotiations, and on or about November
 8 1, 2011, they participated in an all-day mediation conducted by the Honorable Edward Infante
 9 (Ret.) during which a settlement was reached as to all material terms on class benefits and notice.
 10 After the November 1, 2011 mediation session, Judge Infante continued to work with the Parties,
 11 and a final settlement was reached on January 17, 2012, which the Parties have reduced to a
 12 written agreement and are in the process of finalizing class notices and a motion for preliminary
 13 approval.

14 **NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE** as
 15 follows:

16 The initial case management conference scheduled for Friday, April 6, 2012, at 3:00 p.m.,
 17 should be continued to May 18, 2012, at 9:00 a.m., which is the same date and time the Plaintiffs
 18 intend to set for hearing their motion for preliminary approval of the settlement, to allow the
 19 Parties additional time to finalize their settlement and the motion for preliminary approval.

20 **IT IS SO STIPULATED:**

21
 22 Dated: March 30, 2012

STONEBARGER LAW, P.C.

23
 24 By: /s/ Gene J. Stonebarger
 25 Gene J. Stonebarger
 26 Attorneys for Plaintiff
 27 FRANK PABST
 28

1 Dated: March 30, 2012

MILSTEIN ADELMAN LLP

2
3 By: /s/ Sara D. Avila

4 Sara d. Avila
5 Attorneys for Plaintiff
MICHAEL M. FRASER

6 Dated: March 30, 2012

MORGAN, LEWIS & BOCKIUS LLP

7
8 By: /s/ Diane L. Webb


9 Diane L. Webb
10 Attorneys for Defendant
GENESCO, INC.

11 Pursuant to the Parties' stipulation,

12 **IT IS SO ORDERED.**

13
14 Dated: April 2, 2011

By



15 SUSAN ILLSTON
16 U.S. District Court Judge
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ATTESTATION PURSUANT TO GENERAL ORDER 45

I, DIANE L. WEBB, am the ECF User whose ID and password are being used to file this
JOINT STIPULATION TO CONTINUE INITIAL CASE MANAGEMENT
CONFERENCE AND [PROPOSED] ORDER. In compliance with General Order 45, X.B.,
I hereby attest that the signatories above have concurred in this efilings.

I hereby attest that I have on file all holograph signatures for any signatures indicated by a
“conformed” signature (/S/) within this efiled document.

Executed on this 30th day of March, 2012, at San Francisco, California.

MORGAN, LEWIS & BOCKIUS, LLP

/s/ Diane L. Webb

Diane L. Webb